

**SENATE RESOLUTION 403—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN UNITED STATES V. RICHARD F. “DICKIE” SCRUGGS**

Mr. REID of Nevada (for himself and Mr. McCONNELL) submitted the following resolution; which was considered and agreed to:

**S. RES. 403**

Whereas, in the case of United States vs. Richard F. “Dickie” Scruggs, Case No. 3:09-CR-00002-GHD-SAA, pending in the United States District Court for the Northern District of Mississippi, the defense has served a subpoena for testimony on Hugh Gamble, a former employee of Senator Trent Lott, and a subpoena for testimony and document production on Brad Davis, an employee of Senator Thad Cochran;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Hugh Gamble, Brad Davis, and any other employee from whom testimony may be necessary are authorized to testify, and Brad Davis is authorized to produce documents, in the case of United States vs. Richard F. “Dickie” Scruggs, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Hugh Gamble, Brad Davis, and any other employee of the Senate from whom evidence may be sought, in connection with the testimony and document production authorized in section one of this resolution.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 1945. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; which was ordered to lie on the table.

**TEXT OF AMENDMENTS**

SA 1945. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2038, to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the House amendment, add the following:

**TITLE II—PUBLIC CORRUPTION PROSECUTION IMPROVEMENTS**

**SEC. 201. SHORT TITLE.**

This title may be cited as the “Public Corruption Prosecution Improvements Act of 2012”.

**SEC. 202. VENUE FOR FEDERAL OFFENSES.**

(a) IN GENERAL.—The second undesignated paragraph of section 3237(a) of title 18, United States Code, is amended by adding before the period at the end the following: “or in any district in which an act in furtherance of the offense is committed”.

(b) SECTION HEADING.—The heading for section 3237 of title 18, United States Code, is amended to read as follows:

**“SEC. 3237. OFFENSE TAKING PLACE IN MORE THAN ONE DISTRICT.”**

(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 211 of title 18, United States Code, is amended so that the item relating to section 3237 reads as follows:

“Sec. 3237. Offense taking place in more than one district.”.

**SEC. 203. THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE.**

Section 666(a) of title 18, United States Code, is amended—

(1) by striking “10 years” and inserting “20 years”;

(2) by striking “\$5,000” the second place and the third place it appears and inserting “\$1,000”;

(3) by striking “anything of value” each place it appears and inserting “any thing or things of value”;

(4) in paragraph (1)(B), by inserting after “anything” the following: “or things”.

**SEC. 204. PENALTY FOR SECTION 641 VIOLATIONS.**

Section 641 of title 18, United States Code, is amended by striking “ten years” and inserting “15 years”.

**SEC. 205. BRIBERY AND GRAFT; CLARIFICATION OF DEFINITION OF “OFFICIAL ACT”; CLARIFICATION OF THE CRIME OF ILLEGAL GRATUITIES.**

(a) DEFINITION.—Section 201(a) of title 18, United States Code, is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) by amending paragraph (3) to read as follows:

“(3) the term ‘official act’—

“(A) means any act within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official’s official capacity or in such official’s place of trust or profit; and

“(B) may be a single act, more than one act, or a course of conduct; and”;

(3) by adding at the end the following:

“(4) the term ‘rule or regulation’ means a Federal regulation or a rule of the House of Representatives or the Senate, including those rules and regulations governing the acceptance of gifts and campaign contributions.”.

(b) CLARIFICATION.—Section 201(c)(1) of title 18, United States Code, is amended to read as follows:

“(1) otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation—

“(A) directly or indirectly gives, offers, or promises any thing or things of value to any public official, former public official, or person selected to be a public official for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official;

“(B) directly or indirectly, knowingly gives, offers, or promises any thing or things of value with an aggregate value of not less than \$1000 to any public official, former public official, or person selected to be a public official for or because of the official’s or person’s official position;

“(C) being a public official, former public official, or person selected to be a public official, directly or indirectly, knowingly demands, seeks, receives, accepts, or agrees to receive or accept any thing or things of value with an aggregate value of not less than \$1000 personally for or because of the official’s or person’s official position; or

“(D) being a public official, former public official, or person selected to be a public official, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept any thing or things of value personally for or because of any official act performed or to be performed by such official or person.”.

**SEC. 206. AMENDMENT OF THE SENTENCING GUIDELINES RELATING TO CERTAIN CRIMES.**

(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission forthwith shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 201, 641, 1346A, or 666 of title 18, United States Code, in order to reflect the intent of Congress that such penalties meet the requirements in subsection (b) of this section.

(b) REQUIREMENTS.—In carrying out this subsection, the Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect Congress’s intent that the guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(2) consider the extent to which the guidelines may or may not appropriately account for—

(A) the potential and actual harm to the public and the amount of any loss resulting from the offense;

(B) the level of sophistication and planning involved in the offense;

(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(D) whether the defendant acted with intent to cause either physical or property harm in committing the offense;

(E) the extent to which the offense represented an abuse of trust by the offender and was committed in a manner that undermined public confidence in the Federal, State, or local government; and

(F) whether the violation was intended to or had the effect of creating a threat to public health or safety, injury to any person or even death;

(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.